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1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 -----x
5 THOMAS M. MOROUGHAN,
6 Plaintiff,

7
8 -against-

9 THE COUNTY OF SUFFOLK, SUFFOLK COUNTY
10 POLICE DEPARTMENT, SUFFOLK DETECTIVES
11 RONALD TAVARES, CHARLES LESER, EUGENE
12 GEISSINGER, NICHOLAS FAVATTA, and ALFRED
13 CICCOTTO, DETECTIVE/SGT. WILLIAM J. LAMB,
14 SGT. JACK SMITHERS, SUFFOLK POLICE
15 OFFICERS WILLIAM MEANEY, ENID NIEVES,
16 CHANNON ROCCHIO and JESUS FAYA and SUFFOLK
17 JOHN DOES 1-10, THE COUNTY OF NASSAU, NASSAU
18 COUNTY POLICE DEPARTMENT, SGT. TIMOTHY
19 MARINACI, DEPUTY CHIEF OF PATROL JOHN HUNTER,
20 INSPECTOR EDMUND HORACE, COMMANDING OFFICER
21 DANIEL FLANAGAN, DETECTIVE/SGT. JOHN
22 DEMARTINIS, NASSAU POLICE OFFICERS ANTHONY
23 DILEONARDO, EDWARD BIENZ and JOHN DOES 11-20,

24 Defendants.
25 -----x

100 Veterans Memorial Highway
Hauppauge, New York

June 27, 2014
12:45 p.m.

Examination Before Trial of
Defendant, SERGEANT JACK SMITHERS,
before Maria Lazazzaro, a Notary Public of
the State of New York.

A P P E A R A N C E S:

LAW OFFICE OF ANTHONY GRANDINETTE
Attorney for Plaintiff

114 Old Country Road
Mineola, New York 11501
BY: ANTHONY GRANDINETTE, ESQ.

SUFFOLK COUNTY DEPARTMENT OF LAW
Attorneys for Defendants
100 Veterans Memorial Highway
Hauppauge, New York 11788
BY: BRIAN MITCHELL, ESQ.

NASSAU COUNTY OFFICE OF THE COUNTY ATTORNEY
Attorneys for Defendants
One West Street
Mineola, New York 11501
BY: PABLO A. FERNANDEZ, ESQ.

CONGDON, FLAHERTY, O'CALLAGNAN, REID,
DONLON, TRAVIS & FISCHLINGER
Attorneys for Defendant
DEPUTY CHIEF OF PATROL JOHN HUNTER
The Omni
333 Earle Ovington Boulevard
Uniondale, New York 11553
BY: PAULA PAVLIDES, ESQ.

ALSO PRESENT:

MIREL FISCH, ESQ.

AMANDA LEVINE

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED
by and between the counsel for the respective
parties hereto, that the filing, sealing, and
certification of the within deposition shall
be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question, shall be reserved to the
times of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
before any Notary Public with the same force
and effect as if signed and sworn to before
this court.

* * * *

1 Jack Smithers

2 J A C K S M I T H E R S, called
3 as a witness, having been duly sworn by
4 a Notary Public, was examined and
5 testified as follows:

6 * * *

7 EXAMINATION BY

8 MR. GRANDINETTE:

9 Q Please state your full name for
10 the record.

11 A Sergeant Jack Smithers, 2nd
12 Precinct.

13 Q Good afternoon, Sergeant. Will
14 you be kind enough to start out with your
15 educational background for us commencing with
16 high school?

17 A High school diploma out of
18 Massapequa High School.

19 Q What year?

20 A 1981.

21 Q Any subsequent education?

22 A I went to the United States Naval
23 Academy in Annapolis, Maryland. I was in my
24 second year when I left there.

25 Q Anything after that?

Jack Smithers

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A No.

Q Was there any particular reason
you left the academy?

A Yes, I had a very serious
relationship and she was in a car accident,
was in a coma.

Q Sorry to hear that.

A I left to be with her.

Q What year was that?

A 1982.

Q I hope everything worked out.
After 1982, did you begin employment?

A Yes.

Q Can you briefly discuss with us
your employment background starting with 1982
for me?

A 1982, at that time I believe I
became a security supervisor for Pinkerton
Security out of Mineola.

Q How long did you do that?

A I would guess approximately maybe
a year or so.

Q What was next?

A Next my family started a video

Jack Smithers

store, opened up a video store and I managed it.

Q How long did you do that?

A Did it for a year or two. Then I was supposed to get hired by the Nassau Police Department so we sold the video store, but Nassau then put a freeze on hiring and I wound up going into Suffolk.

Q When did you start with the Suffolk County Police Department?

A February of '85.

Q After you graduated from the academy, were you assigned to field training?

A No.

Q What happened after you --

A When we graduated the academy, we were one of the only classes, I believe, that did not have field training because we were short police officers. We came right out and right --

Q Went right to work?

A Right to work.

Q Can you briefly go through your promotional history from '85 to February 2011?

1 Jack Smithers

2 A I was a police officer in the 4th
3 Precinct and I got promoted to sergeant in
4 September of '92.

5 Q Was that a result of taking a
6 civil service test?

7 A Yes.

8 Q Can you tell me where you were
9 assigned in September of '82?

10 A '92.

11 Q '92.

12 A Right to the 2nd Precinct, where
13 I am now.

14 Q Did you remain there from 1992 to
15 the current date?

16 A Yes, never left.

17 Q Going back five years from
18 February 27, 2011, have you ever been the
19 subject of a complaint?

20 A Going back?

21 Q From 2011. So that would be
22 going back to --

23 MR. MITCHELL: 2006.

24 MR. GRANDINETTE: Thank you.

25 Q Since February 2006, were you

Jack Smithers

ever the subject of a complaint?

A No.

Q Ever named defendant in a suit?

A Once, 30 years ago.

Q On February 27, 2011 can you describe your duties and responsibilities as a sergeant at the 2nd Precinct?

A I am still and at that time was a road supervisor.

Q You were a patrol supervisor as opposed to a precinct supervisor?

A Yes.

Q Is that the way it works in Suffolk, the sergeants are assigned to patrol and some are assigned to --

A Fair to say.

Q House?

A Right. You have a desk sergeant then several road sergeants, patrol sergeants.

Q Your responsibility is to supervisor patrol officers within the 2nd Precinct?

A Yes.

Q Were you so engaged on

1 Jack Smithers

2 February 27, 2011 at about 1:20 a.m.?

3 A Yes.

4 Q Did there come a time that you
5 were notified by dispatch that there was a
6 Nassau County off-duty police officer who was
7 shot?

8 A Yes.

9 Q Where were you when you received
10 that notice?

11 A I recall being, if not in the
12 precinct parking lot, but around the precinct.
13 I was responding from there.

14 Q You didn't actually hear that
15 call, that was just relayed by the dispatch
16 unit, right?

17 A Yes.

18 Q In other words, you didn't hear
19 the 911 call yourself?

20 A No, I heard it over the radio.

21 Q What did you do in response to
22 that call?

23 A Immediately notified over the air
24 that I was responding and got myself there as
25 quick as possible.

Jack Smithers

Q Prior to arriving, did you subsequently learn through another dispatch that an officer was not, in fact, shot, but there was a shooting?

A Yes.

Q Prior to your arrival, did you receive a third dispatch learning there was a weapon missing?

A Yes.

Q Did you have any further details about the weapon?

A Not at that time, no.

Q Approximately what time did you arrive at the scene?

A I believe it was somewhere in the vicinity of maybe three to five minutes, something like that.

Q Approximately what time did you arrive there, if you recall?

A I don't recall. I guess, like I said, three to five minutes from the time the dispatch went out.

Q If the dispatch came out about 1:20, you were there about 1:25 a.m.?

1 Jack Smithers

2 A Somewhere in that vicinity.

3 Q Where did you respond to?

4 A Responded to Oakwood Road across
5 from, I believe, the Stimson Middle School.

6 Q What did you observe when you
7 arrived, if anything?

8 A I observed a pretty chaotic
9 scene. There were two civilian-type vehicles
10 on the shoulder of the road, facing northbound
11 on Oakwood Road.

12 Q Were they on the east or west
13 side of the road? You said they were facing
14 north. So they were positioned on the east
15 side of the road?

16 A East side.

17 Q What else did you see that
18 resulted in your opinion that it was sort of a
19 chaotic scene when you arrived?

20 A I saw a couple police officers.
21 I definitely recall seeing Officer Rocchio and
22 Officer Nieves, who was in the 203 car who
23 were assigned this call.

24 Q Did you notice any other patrol
25 cars in the area?

1 Jack Smithers

2 A I think I do remember seeing a
3 car blocking traffic, but I don't remember who
4 that was or what car that was.

5 Q At any rate, when you arrived,
6 where did you position your car?

7 A I believe I positioned my car
8 over by the elementary school on the other
9 side of the road.

10 Q What did you do?

11 A I immediately responded over to
12 the police officers, to the uniformed police
13 officers, Rocchio and Nieves, because as I
14 walked up, I believe, I believe Rocchio kind
15 of met me and started telling me, you know,
16 what -- filled me in on what we had.

17 Q What did she fill you in on?
18 What did she tell you?

19 A She said that there was an
20 incident between a cab driver and an off-duty
21 Nassau Police Officer and that the weapon had
22 been lost, possibly inside of the cab.

23 Q How long was this conversation?

24 A Seconds.

25 Q After that, what, if any,

1 Jack Smithers

2 direction did you give her?

3 A I don't recall giving her any
4 direction at that point because I recall
5 DiLeonardo approaching me.

6 Q When you say DiLeonardo, first of
7 all, did you see any civilians at the scene
8 near Rocchio and Nieves?

9 A I did see several civilians.

10 Q How many, do you recall?

11 A I don't recall.

12 Q Do you recall where they were
13 standing?

14 A I believe a couple of them were
15 on the sidewalk on the northbound side. And,
16 like I said, now known to me to be Officer
17 DiLeonardo was, I believe, maybe on the
18 shoulder and that is where he started to
19 approach me from.

20 Q When you first saw these people,
21 can you give me -- do you have any independent
22 recollection of what they looked like, what
23 they were wearing, anything like that?

24 A Nothing at all.

25 Q Do you have any independent

1 Jack Smithers

2 recollection of whether they were talking,
3 conversing when you pulled up, anything like
4 that?

5 A No.

6 Q You said that the person you now
7 know to be Anthony DiLeonardo, he approached
8 you?

9 A Yes.

10 Q When he walked over towards you,
11 you were standing near Officer Rocchio?

12 A Yes.

13 Q Was anyone else in your immediate
14 vicinity?

15 A Not that I recall.

16 Q Was this the actual roadway of
17 Oakwood Road?

18 A Yes.

19 Q As he approached you, sir, did
20 you observe on his person any police shield?

21 A I don't recall.

22 Q Did you ask him whether or not he
23 had any identification?

24 A I did not ask him for
25 identification.

1 Jack Smithers

2 Q After he began to approach you,
3 what, if anything, happened next?

4 A He was, from what I can recall,
5 distraught, bordering on tears. And he said
6 to me, Sarge, can you help me.

7 Q Were you in a uniform?

8 A Yes.

9 Q Describe what his emotional state
10 was? You said that he appeared to be
11 distraught and on the verge of tears?

12 A Yes.

13 Q You noticed that immediately?

14 A Very immediately.

15 Q Physically, what did you observe?
16 Was he shaking, trembling, anything?

17 A Don't remember shaking. Just
18 very upset.

19 Q What did you say in response to
20 his inquiry, Sergeant, help me?

21 A I asked him what occurred.

22 Q Did you have any immediate
23 concern about the possibility of someone having a
24 weapon at the scene?

25 MR. MITCHELL: Objection to form.

1 Jack Smithers

2 You can answer.

3 Q You arrived at the scene, you
4 knew there were shots fired. Did you have any
5 immediate concern of securing the area,
6 looking around, making sure there were no
7 weapons, no one else around?

8 A No. Like I said, it was known to
9 us at least his weapon was missing.

10 Q You didn't know where that weapon
11 was at this point?

12 A I believe at some point -- again,
13 to the best of my recollection, I think by the
14 time I'm talking to him, I think we now know
15 that the cab is at Huntington Hospital and the
16 weapon was discovered inside the cab.

17 Q Was that sufficient enough for
18 you to alleviate any concerns you had there
19 might have been another perp, another weapon?

20 A At that time, yes.

21 Q You have this discussion with
22 Anthony DiLeonardo and you said you wanted to
23 ascertain from him what happened?

24 A Yes.

25 Q What does he say to you?

1 Jack Smithers

2 A He says that -- as I'm speaking
3 to him, rescue starts to show up, so I knew I
4 had to get this quickly. But he says to me
5 that he, and who I now know to be the other
6 Nassau Officer, were in separate cars. They
7 were out, they were lost. Pulled out on the
8 shoulder of Oakwood and were discussing where
9 they were and where they were going when a cab
10 driver pulled up and was upset with something
11 that they apparently did, starting cursing at
12 them. DiLeonardo said he exited his vehicle
13 and at that point the car driver backed up his
14 vehicle and drove at him, at which point he
15 discharged his weapon firing several rounds at
16 the cab. And the vehicle struck the other
17 Nassau Officer in the knee and fled northbound
18 on Oakwood Road.

19 Q Did he tell you anything else?

20 A No, that is all I recall him
21 telling me.

22 Q How long did you speak to him
23 during the course of him giving this account?

24 A It was no more than a minute
25 because some of that was taken up where I was

Jack Smithers

questioning him as -- as he started to tell me the story, I thought he had been shot because -- I'm not sure if he was aware at the time, but there was a large wound in his arm. And I said have you been shot. He said I think I might have shot myself.

Q During the course of this minute exchange where he is explaining to you what transpired, you notice, I think you described it in the past as a gaping wound?

A Yes.

Q Is that the way you would describe your observations that night, a gaping wound?

A Yes. I later have been told that I guess I'm not an EMT and gaping means something different. To me it was a large, open wound where it looked like an object could have been under the skin.

Q Did you interrupt him during of the course of his explanation after you observed that wound?

A I don't recall if I interrupted him.

1 Jack Smithers

2 Q At any rate, did you inquire
3 about how he obtained that injury?

4 A Yes.

5 Q Did he then tell you he believed
6 he shot himself?

7 A Yes.

8 Q Did you ask him how did you shoot
9 yourself?

10 A I didn't say how did you shoot
11 yourself. He just said I think I shot myself
12 and he -- from my recollection, I recall him
13 actually demonstrating with one arm up and one
14 arm with a gun how he might have put the hand
15 in front of him and shot himself accidentally.

16 Q Did he physically demonstrate it
17 for you?

18 A Yes.

19 Q Which arm was injured, do you
20 recall?

21 A I believe now I think -- I
22 originally believed it was his left arm, but I
23 think it's his right arm.

24 Q At any rate, he held up one hand
25 in front of him?

Jack Smithers

1
2 A He held up one hand, whichever
3 hand it was, almost to prevent the cab from
4 hitting him. I guess it's an immediate
5 reaction. And with the other hand, had a gun
6 and he thinks his hand or arm got in the way.

7 Q Did he tell you that the cab was
8 driving directly at him?

9 A I recall him saying the cab was
10 driving at him.

11 Q Did he indicate whether or not
12 anything precipitated these events?

13 MR. MITCHELL: Objection to form.

14 You can answer.

15 Q Any event occurred prior to this
16 with the cab?

17 A The only thing I know or knew at
18 that time was that while he was having a
19 conversation with Bienz, the cab driver pulled
20 up and it was not known me at that time, but
21 just that he started to curse at him and he
22 had a problem with something that had
23 occurred.

24 Q And start to finishing, this
25 whole thing took about a minute, this

Jack Smithers

conversation?

A Yes.

Q It was very brief?

A It was quick, very quick.

Q It was you, Rocchio and DiLeonardo and took the span of a minute?

A I don't even know if Rocchio was still there for that.

Q When the conversation began, Rocchio was with you?

MR. MITCHELL: Objection to form.

You can answer.

A Initially, Rocchio and I spoke. But when DiLeonardo approached, like I said earlier, I don't know if Rocchio stayed or Rocchio then went to her other responsibilities.

Q But you were in the midst of a conversation with Rocchio as DiLeonardo approached you, then had this minute conversation?

A Yes.

Q You are not sure, she may have been there for the whole conversation?

Jack Smithers

A Right.

MR. MITCHELL: Or may not.

Objection to form. You can answer.

A I don't recall her being there.

What I do recall is rescue -- probably half of the conversation I'm having with him, the ambulance workers are tending to his wound.

Q You are not sure if Rocchio walked away during this minute conversation?

A Right.

Q Would it be fair to say that you never gave her an order to leave prior to the start of the conversation to go do something?

A I don't recall if I gave her an order to leave.

Q When this conversation began, you said halfway through the conversation that someone from rescue arrived?

A Yes.

Q When you say rescue, you are referring to an EMT from the ambulance that arrived?

A Yes.

Q You are saying that this

Jack Smithers

conversation happened almost within 30 seconds, a minute of your arrival at the scene itself?

A I would guess within a couple minutes. If I spoke to Officer Rocchio for a minute and then -- talking about maybe a couple --

Q You --

MR. MITCHELL: Let him finish.

Talking about what?

A Maybe a total of a couple minutes.

Q You park your car, walk over, speak to Rocchio on Oakwood, DiLeonardo approaches, you are having this conversation, then the EMT officer or technician walks up and begins to treat DiLeonardo?

A Yes.

Q What was he doing to treat DiLeonardo?

A I believe, to the best of my recollection, they were just wrapping his arm.

Q When you say they, there was more than one technician?

1 Jack Smithers

2 A I believe there was more than one
3 rescue person. I don't know their
4 certification.

5 Q When they came up, did they
6 interrupt and say are you okay? What
7 happened? How did you sustain your injury?
8 Things of that nature?

9 A I don't recall them asking how he
10 sustained the injury.

11 Q Did they walk up to him already
12 with bandages in hand and immediately start to
13 wrap his arm?

14 A I don't recall.

15 Q Was there any conversation by EMT
16 when they first approached saying is there
17 anyone hurt here?

18 A I don't remember them asking
19 that. Like I said, my focus was to speak to
20 DiLeonardo at the time. I was not sure what
21 they said.

22 Q Based upon your account as you
23 recall it, there were witnesses to this
24 conversation or his explanation, at least half
25 of it, as to what transpired?

1 Jack Smithers

2 MR. MITCHELL: Objection to form.

3 You can answer.

4 A Yes.

5 Q They would have been in the
6 immediate proximity when DiLeonardo was giving
7 his account?

8 A Yes.

9 Q You didn't have the opportunity,
10 did you, during that minute, to follow up with
11 DiLeonardo to any specific questions, correct?

12 A Yes, I don't recall asking him
13 anything further.

14 Q For example, you didn't say to
15 him or didn't inquire what happened
16 immediately prior to this that led to the
17 altercation?

18 MR. MITCHELL: Objection to form.

19 You can answer.

20 A I don't recall asking him that.

21 Q Normal follow-up questions that
22 might be, you know, where were you when the
23 car first charged, right? How far were you
24 from the car? Could you have avoided the car?
25 When did you first draw your weapon? Did the

Jack Smithers

car actually hit you? Things of that nature,
right?

MS. PAVLIDES: Objection.

MR. FERNANDEZ: Objection.

MR. MITCHELL: Objection. You
can answer.

A Those are questions that I
believe --

MR. MITCHELL: Sergeant, listen
to the question. He is asking what you
asked.

Q You didn't ask any of those
questions?

A No.

Q You indicate that you had a
concern, at least at that moment, that there
was a gaping wound and you didn't -- it was in
the evening, right?

A Yes.

Q What were the lighting conditions
like?

A I don't recall what the lighting
conditions were.

Q At any rate, after the EMTs came

Jack Smithers

over and started to attend to Mr. DiLeonardo,
did you have any further conversation with him
or did you attend to other police duties?

A At this point, I recall him going
in the ambulance and at that point I started
my other responsibilities at the scene.

Q I know that you just mentioned
this, but I want to be sure I have it right.
Was he physically shaking as he was talking to
you?

MR. MITCHELL: Objection to form.

You can answer.

A I don't recall him shaking.

Q Did he appear to be nervous to
you?

MR. MITCHELL: Objection to form.

You can answer.

A He appeared very upset to me.

Q Let me just ask if you recall
being asked this question and giving this
answer back on March 9, 2012 during the
interview with Sergeant Lynch.

[REDACTED]

1 Jack Smithers

2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]"

7 Do you recall being asked that
8 question, giving that answer?

9 A I don't recall.

10 Q I understand it was a long time
11 ago, right?

12 A Yes.

13 Q It was a very brief conversation.
14 Does that refresh your recollection if he was
15 physically actually shaking when you were
16 speaking to him?

17 A If that's what it says.

18 MR. MITCHELL: Does it refresh
19 your recollection, Sergeant? That's the
20 question.

21 THE WITNESS: No.

22 Q How close in proximity would you
23 say that you were to Mr. DiLeonardo during
24 this one-minute conversation?

25 A Maybe 2, 3 feet.

Jack Smithers

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Q Did you notice the odor of an alcoholic beverage at all?

A No.

Q Did he appear to be intoxicated at all?

A No.

Q Was there any indication whatsoever that he may have consumed alcohol?

A No.

Q Did Officer Rocchio ever advise you, hey, Sarge, heads up, I smell alcohol on this guy?

A Never.

Q When you say after this conversation you went to attend to your other police duties, would that be related to securing the scene?

A Making sure that the scene is secured by the police officers there.

Q DiLeonardo is taken by these EMT personnel that you saw and brought into the -- he is walked back towards the ambulance?

A That's what I recall.

Q Can you tell me where the

Jack Smithers

ambulance was parked?

A I believe the ambulance was on Oakwood Road, somewhere near the middle of the road.

Q Do you know where it was in relation to the cars?

A I believe it was just north of the cars.

Q Where were you standing in the roadway in relation to those same two cars?

A Somewhere in the vicinity of the vehicles.

Q Which one?

A I don't recall.

Q The one farthest north or farthest south?

A I don't recall.

Q Do you know how far you were away from this ambulance?

A From the ambulance?

Q Yes. Feet wise.

A It was a pretty good distance. If I had to give you a number, maybe 20 yards.

Q Did you get there before or after

Jack Smithers

the ambulance?

A Not sure if they pulled up at the same time or right after me, but they were there pretty quickly after my arrival.

Q Do you know if they were men or women?

A I don't recall.

Q Do you recall any conversation you may have had with either EMT technician?

A I don't recall having any conversation with the EMTs.

Q How about Officer Rocchio? Did she communicate with them at all?

A I didn't see her communicate with them.

Q After DiLeonardo was escorted back to the ambulance, for lack of a better word, by the EMT personnel, did you have any other conversations with him ever?

A No.

Q You spoke to him that night for under a minute and half of that was concerning the injury with the EMT present?

A Exactly.

Jack Smithers

1
2 Q Was there any other discussion
3 with him about any other issue or fact?

4 A No.

5 Q Did he ever mention anything to
6 you at all about going back to the car after
7 he shot the gun and trying to get the driver
8 out of the car or anything like that?

9 A I believe he said to me that
10 after he fired his weapon he tried to get the
11 driver out. But to tell you the truth, I'm
12 not sure if he told me that or the police
13 officer told me that.

14 Q That information concerning what
15 happened after the shooting, you could have
16 learned from someone other than Anthony
17 DiLeonardo?

18 A Possibly.

19 Q He never told you that night that
20 he arrested or attempted to arrest the driver,
21 correct?

22 MR. MITCHELL: Objection to form.

23 You can answer.

24 A I don't recall him saying
25 arrested.

1 Jack Smithers

2 Q In total then, would it be fair
3 to say you were in his presence about a
4 minute, minute and a half that night?

5 A That's fair.

6 Q Did you ever communicate with the
7 other male, Edward Bienz?

8 A Never.

9 Q Did you ever communicate with
10 either of the females -- first let me ask you
11 this: Did you know that the two male officers
12 were in the company of others?

13 A Yes.

14 Q Did you have an opportunity to
15 physically observe them?

16 A I saw them and to my recollection
17 I believe they were on the sidewalk the whole
18 time I was there.

19 Q Two females?

20 A Two females.

21 Q Did you hear any of those three
22 say anything?

23 A I don't remember hearing
24 anything.

25 Q Can you describe for me what they

Jack Smithers

looked like?

A Not at all.

Q Can you tell me whether or not, even if you didn't hear what they said, if they were talking?

A I don't recall.

Q Can you describe for me whether or not they appeared to be upset in any way?

A I don't recall.

Q Did either of those three individuals appear to have any physical injury?

A I don't recall.

Q Do you know if Rocchio advised you or mentioned anything about these other three individuals?

A Somebody brought to my attention that Bienz had been struck by the vehicle and might have injured his knee.

Q When was that information imparted to you, if you know?

A I'm not sure if Rocchio told me that as I pulled up or after.

Q You could have learned that Bienz

1 Jack Smithers

2 may have been hit by the automobile
3 subsequently?

4 A Yes.

5 Q But you didn't observe anything
6 that would indicate to you, as you stood in
7 the roadway at Oakwood, that Ed Bienz was
8 injured physically?

9 MR. MITCHELL: Objection to form.

10 You can answer.

11 A Not to my recollection.

12 Q Well, he wasn't complaining? He
13 wasn't sitting on the ground? He didn't
14 appear to be in any apparent pain or distress?

15 MR. MITCHELL: Objection to form.

16 You can answer. Wait for me to object.

17 You can answer the question.

18 A I can't recall really anything
19 about Officer Bienz.

20 Q How far would you say that you
21 were from him when you were standing in
22 Oakwood Road, in the middle of Oakwood Road?

23 A To the best of my recollection,
24 had to be probably 15, 20 feet when he was on
25 the sidewalk.

1 Jack Smithers

2 Q So it was relatively close,
3 correct?

4 MR. MITCHELL: Objection to form.

5 You can answer.

6 A 15 to 20 feet, I guess it could
7 be semi-close.

8 Q You didn't observe anything with
9 your own senses that would suggest to you that
10 any of those three individuals, including
11 Bienz, was in need of medical assistance,
12 correct?

13 MR. MITCHELL: Object to form.

14 You can answer.

15 MR. FERNANDEZ: Objection.

16 A I don't recall anything about
17 Bienz.

18 Q When you arrived at the scene,
19 did you report your arrival to dispatch?

20 A I don't recall.

21 Q Is there a code that you give?

22 A Sometimes there is a code that
23 says your arrival. Sometimes if it's an
24 emergency, you just don't have time to give it
25 or it's not given.

1 Jack Smithers

2 Q If you did give it, it would
3 appear on a CAD report?

4 A I believe so.

5 Q Did you notice or did you observe
6 whether or not these other three individuals
7 were taken into the ambulance or received any
8 medical treatment?

9 A At some point, it was relayed to
10 me that both officers were in the ambulance.
11 I don't recall what happened to the females.

12 Q Let's talk about after this
13 conversation. What was the next police action
14 you took, if anything? You said you went to
15 secure the scene?

16 A I went to make sure the scene was
17 secured. That's not my job. My job is to
18 make sure it happens, not to physically do it.
19 I make sure the officers are doing what they
20 are supposed to be doing.

21 Q Fair to say you are senior
22 supervisor at the scene?

23 A Yes.

24 Q There's an incident now involving
25 a serious matter on a relatively busy

Jack Smithers

thoroughfare, correct?

A Yes.

Q One of the concerns you have is for the immediate safety, not only of those present, but oncoming motorists? It's dark out, there are people in the area. You want to secure that scene so no one is hurt, right?

MR. MITCHELL: Objection to form.

You can answer.

A Yes.

Q The people under your command, the patrol officers are responsible for securing the area, controlling traffic, things of that nature?

A Yes.

Q You, as the sergeant, have the responsibility to make sure they are doing their job and the first matter of importance is securing that scene?

MR. MITCHELL: Objection to form.

A Yes.

Q Is it fair to say that is what you addressed when you went on to secure the scene, to make sure that patrol officers were

Jack Smithers

stationed at each side, north and south of the incident, right?

A That was one of my responsibilities, yes.

Q You walked the scene and set the parameters of the scene?

A I don't recall setting the parameters of the scene. I do recall making sure that enough of it was contained within the scene, that we had enough preserved.

Q You didn't have a factual understanding of everything that transpired, right?

MR. MITCHELL: Objection to form.

You can answer.

Q In other words, you didn't know the entire scope of the scene, right?

MR. MITCHELL: Objection to form.

You can answer.

A To the best of my knowledge, I believe the crime scene was right basically where the civilian vehicles were and in that vicinity.

Q Do you know that to be in the

1 Jack Smithers

2 neighborhood of 422 Oakwood?

3 A I don't know.

4 Q You don't recall the exact
5 address. Fair enough.

6 Did you, as part of your
7 supervisory duties, employ the patrol officer
8 to make sure that they secured the crime
9 scene, whatever the parameters were?

10 A Yes.

11 Q Thereafter, would it be fair to
12 say that you remained at the crime scene for
13 the remainder of the evening?

14 A Majority of the evening.

15 Q There came a point in time that
16 you left?

17 A Yes.

18 Q What were you doing while you
19 remained at the crime scene?

20 A One of my other responsibilities
21 was to then notify Homicide Squad to respond.

22 Q You notified Homicide to respond
23 to the scene based on the fact this was a
24 shooting involving an off-duty police officer?

25 A Yes.

1 Jack Smithers

2 Q Was it your understanding
3 pursuant to the rules and regulations,
4 Homicide would investigate shootings involving
5 a police officer?

6 A Yes.

7 Q Did you make that notification?

8 A Yes.

9 Q When did you make that
10 notification?

11 A I don't know the time I made it,
12 but at some point shortly after speaking to
13 the Nassau Officer.

14 Q You make the notification at some
15 point in time. Did you also notify Crime
16 Scene?

17 A At some point, Crime Scene showed
18 up. I'm not sure if I directed someone to
19 call Crime Scene or if I called Crime Scene.

20 Q As far as the ambulance is
21 concerned, did you direct Rocchio to go back
22 to the hospital with the four individuals
23 including DiLeonardo?

24 A I directed Rocchio to go in the
25 ambulance with the Nassau Officers, yes.

Jack Smithers

Q Can you tell me how long the ambulance remained at the scene approximately until it took off?

A Honestly, no idea.

Q Then would it be fair to say some point in time you called Crime Scene so they can come down and do their things?

A Yes.

Q They arrive, have a truck, set up lights and they do what they do, right?

MR. MITCHELL: Objection to form.

You can answer.

A They do their normal crime scene workup.

Q Did you assist in that in any way?

A No.

Q Were you ever asked any questions by Crime Scene?

A I don't recall.

Q Then you said you called Homicide and some time later Homicide came down?

MR. MITCHELL: Objection to form.

You can answer.

1 Jack Smithers

2 A Yes.

3 Q When was it that you left the
4 crime scene itself at Oakwood?

5 A I believe it was somewhere in the
6 vicinity of 5:30 in the morning.

7 Q When you left somewhere around
8 5:30, did you have a specific destination?

9 A Yes.

10 Q Where was that destination?

11 A Huntington Hospital.

12 Q That was based upon a specific
13 police purpose related to this case or another
14 case?

15 A Another case.

16 Q What was that other case?

17 A I had to do a report for
18 another -- an injured employee in an unrelated
19 matter.

20 Q One of your patrol officers was
21 hurt in an unrelated matter at an unrelated
22 destination?

23 A Yes.

24 Q Part of your duties as a patrol
25 sergeant would be to respond, ascertain what

Jack Smithers

happened and prepare a report?

A Yes.

Q Did you then respond to the hospital?

A Yes.

Q Do you know if this was a serious injury, was it something that concerned you?

MS. PAVLIDES: Note my objection.

MR. MITCHELL: Obviously, you mean to the other officer?

Q The other officer. A couple guys within your command -- someone was injured?

A Yes.

Q I'm sure you're concerned with their health and well being?

A Yes.

Q You responded to the hospital for that specific person to see if they were all right? Were they okay?

A I believe the officer in question may have suffered a back injury.

Q Do you remember the nature of the injury to the other officer?

MS. PAVLIDES: Note my objection.

1 Jack Smithers

2 MR. GRANDINETTE: Withdrawn.

3 Q Do you know the name of this
4 officer that was hurt?

5 A Yes.

6 Q What was his name?

7 A Officer Matt Angelo.

8 Q Do you recall the specifics of
9 what happened, how he sustained the injury?

10 MR. MITCHELL: Object to the
11 form. You can answer.

12 A I don't recall all the specifics,
13 but the injury -- to my recollection, the
14 injury was a car accident where one of the --
15 it was two police officers in the vehicle, one
16 police officer was airlifted to Stony Brook
17 and Officer Angelo went to Huntington
18 Hospital.

19 Q Someone was actually airlifted to
20 what hospital?

21 A To Stony Brook Hospital.

22 Q When did you learn that news?

23 A Not sure when was that brought to
24 my attention.

25 Q Obviously, this was a very

1 Jack Smithers

2 serious auto collision?

3 MR. MITCHELL: Objection to form.

4 You can answer.

5 A I never saw the vehicles. Just
6 than one police officer went to Stony Brook
7 and one went to Huntington.

8 Q Would it be fair to say, based
9 upon the medical response that someone was
10 airlifted, did you learn this was a very
11 serious medical condition?

12 MR. MITCHELL: To the officer you
13 mean?

14 MR. GRANDINETTE: Yes.

15 Q One of your officers had a
16 serious injury, right, he was airlifted to a
17 hospital?

18 MS. PAVLIDES: Note my objection.

19 MR. MITCHELL: You can answer.

20 A I believe that probably the
21 injuries requiring a helicopter would be
22 serious.

23 Q When you went to Huntington
24 Hospital, did you make inquiry of the officer
25 as to if -- what was his name again?

1 Jack Smithers

2 MR. MITCHELL: Which one? The
3 guy at Stony Brook or Huntington?

4 Q The guy at Huntington Hospital,
5 what was his name?

6 A Officer Matt Angelo.

7 Q Did you go to Huntington Hospital
8 and did you go speak to him?

9 A Yes.

10 Q Did you learn the nature and
11 extent of his injury?

12 A Yes.

13 Q Did you do your reporting
14 responsibilities after finding out the nature
15 and extent of his injury?

16 A Yes.

17 Q Did you remain with him at
18 Huntington Hospital?

19 A For a short time, yes.

20 Q How long did you remain with him
21 at Huntington Hospital, if you recall?

22 A I don't recall.

23 Q Can you give me any estimation of
24 when you got there and when you left?

25 A No, I would be guessing.

Jack Smithers

Q Do you know where you did your reporting responsibilities related to his injuries?

A I don't recall exactly, but my normal protocol on injured employees, I would start the report there because there are certain things I do need as far as a doctor's name and diagnosis. Then I would normally complete my report at the precinct.

Q In this particular case, you don't have an independent recollection if you employed your normal protocol, but normally what you are saying is you get information, doctor's name, diagnosis, prognosis, that kind of thing, right?

A Yes.

Q I would assume you would have to wait and at least to have an opportunity for him to be treated and to receive a prognosis and diagnosis, right?

MR. MITCHELL: Objection to form.

You can answer.

A Yes.

Q That makes perfect sense because

1 Jack Smithers

2 the doctor may not immediately know what the
3 problem is. Something happens, taken for
4 X-rays, CAT scans, perhaps, right?

5 A Sometimes.

6 Q On that particular evening, do
7 you recall, do you have any independent
8 recollection how long you were there with this
9 particular officer while he was being treated
10 until you had a handle on the nature and
11 extent of his injuries?

12 MR. MITCHELL: Objection to form.

13 You can answer.

14 A I don't recall, but I do know
15 that he was there for some time prior to my
16 arrival, so he had already begun his
17 treatment.

18 Q Then there was some later point
19 you responded back to the precinct to prepare
20 your paperwork on him?

21 A Yes.

22 Q What time did you conclude that
23 paperwork, if you know?

24 A I don't recall.

25 Q Would it be fair to say -- after

Jack Smithers

1
2 you completed that paperwork, was your tour
3 over?

4 A Yes.

5 Q When you were back at the
6 precinct, is that what you focused on,
7 completing that paperwork and then your tour
8 ended?

9 A Yes.

10 Q Did you have any other police
11 duties while you were back at the 2nd
12 Precinct?

13 A I don't recall doing anything
14 other than the injured employee.

15 Q Did you have any other discussion
16 back at the 2nd Precinct with any officers,
17 Nassau County, Suffolk County, related to the
18 shooting inside on Oakwood Road?

19 A I don't recall.

20 Q You have no independent
21 recollection of speaking to any Suffolk County
22 Police Officers regarding the events at
23 Oakwood Road?

24 A I don't recall back at the
25 precinct having any discussion.

Jack Smithers

1
2 Q You testified about what happened
3 at the scene, your discussion with Rocchio in
4 setting up the crime scene, correct?

5 A Yes.

6 Q Did you have any other discussion
7 with anyone at the scene prior to going over
8 to take care of the officer who was injured at
9 Huntington Hospital?

10 A I recall having, I guess, a brief
11 conversation with the Homicide lieutenant that
12 came to the scene.

13 Q Who was that?

14 A I believe it was Lieutenant
15 Pilkofski (phonetic).

16 Q How long was your conversation
17 with him?

18 A Same, very quick, just giving him
19 a brief synopsis of what happened.

20 Q When you say brief, minute?

21 A Minute or two, yes.

22 Q That was about your role of what
23 you did up to that point in time and what you
24 knew?

25 A Yes.

Jack Smithers

Q Shooting, four individuals, two off-duty Nassau County cops brought over to Huntington Hospital for treatment?

A Yes.

Q Anything else?

A Not to my recollection.

Q Fair to say you didn't prepare any reports in this case?

A I don't recall preparing any reports in this case.

Q Were you asked to prepare any supplemental reports in this case?

A No.

Q Did you take any notes that night?

A Just my memo page, no other notes.

Q What is in your memo page about this incident?

A My memo page is your normal day-to-day entries of any call that you respond to.

Q Have you seen that memo page recently?

1 Jack Smithers

2 A I did look at it, I guess, a
3 couple weeks ago.

4 MR. GRANDINETTE: Brian, I'm sure
5 you probably gave it to me, but I don't
6 have it. Can you to be kind enough to
7 give it to me?

8 MR. MITCHELL: If I have it. I
9 can take a look.

10 Q Do you have it?

11 A I don't have it with me.

12 MR. MITCHELL: I might have it
13 here.

14 (Whereupon, a short break was
15 taken.)

16 MR. GRANDINETTE: Mark this as
17 83.

18 (Whereupon, Plaintiff's Exhibit
19 83, Sergeant Smithers' memo book, was
20 marked for identification as of this
21 date by the reporter.)

22 Q Sergeant Smithers, can you look
23 at what has been marked as 83?

24 A Yes.

25 Q Do you recognize that?

1 Jack Smithers

2 A Yes, memo book.

3 Q Does this memo book reflect the
4 totality of your writings with respect to your
5 involvement in this case?

6 A Yes.

7 Q Would it be fair to say that you
8 prepared that on the night in question?

9 A Yes.

10 Q You had your memo book with you
11 that night?

12 A Yes.

13 Q You are trained, are you not, to
14 record events, relevant events that you were
15 involved with?

16 A Yes.

17 Q Looking at your memo book, can
18 you give me a more accurate time of when you
19 arrived at Huntington Hospital to attend to
20 the injured officer following his automobile
21 accident?

22 A According to this, I left the
23 scene on Oakwood Road at 5:50 and went
24 directly to the hospital. So I assume I
25 arrived approximately 6 a.m.

Jack Smithers

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Q Is there an indication of what time you left the hospital?

A No.

Q Or arrived back at the precinct?

A There is no indication, just what time I finished at the precinct, which was 9:45.

Q You said you are a sergeant assigned to patrol. When you respond back to the precinct, is the patrol section and the squad in two separate areas physically?

A Yes.

Q You didn't have occasion to see DiLeonardo, Bienz or any of the contingent that were at Oakwood Road at the precinct when you went back?

A Never saw them.

Q You never saw any members of Homicide Squad or any detectives?

A Correct.

Q You never spoke to them about any issues that occurred at Oakwood Drive?

A Not back at the precinct, no.

Q I imagine that the first time

Jack Smithers

that you were questioned about this incident,
since that time, was by Sergeant Lynch on
March 9, 2012, right?

A Yes, that was my Internal
Affairs.

Q Between the date of incident and
March 9, 2012, you didn't have any
communication with anybody about the facts of
this case, correct?

A When you say anybody, who are you
referring to?

Q I mean anyone.

A I spoke to --

Q Not your attorney. Not
Mr. Mitchell. If you had a conversation with
Mr. Mitchell, please don't tell me about it.
Other than Mr. Mitchell, you didn't have any
conversation with anyone?

A No.

Q When you were at the hospital,
you said you responded to the ER, correct?

A Yes.

Q When you responded to the ER, can
you tell me where you went within the ER?

1 Jack Smithers

2 A To my recollection, I was in the
3 vicinity of the nurse's desk. I don't know
4 where else I went.

5 Q When you went to the nurse's
6 desk, were there other officers there from
7 Suffolk County as well as Nassau County?

8 A I believe I saw one other Suffolk
9 Police Officer and I do remember seeing
10 numerous people that I learned to be from
11 Nassau County. That's all.

12 Q When you saw these people or
13 learned they were from Nassau County, did you
14 have any conversations with them?

15 A Never.

16 Q So you never discussed any of
17 your police activity back at Oakwood Road with
18 anyone from Nassau County ever to this day?

19 A The only person, not at the
20 hospital, I believe someone showed up on
21 Oakwood Road from the Shooting Review Board
22 and I informed them their officers were in
23 Huntington Hospital.

24 Q Other than that?

25 A No.

Jack Smithers

Q Never had a discussion with any other person?

A Correct.

Q Just told them whoever came your guys are at Huntington Hospital and then they responded to Huntington Hospital?

A Yes.

Q When you say that you were at the nurse's station, how long were you at or about the nurse's station from the time you arrived to the time that you left?

A I don't recall.

Q You are familiar with P.O. Meaney? He is one of the police officers under your control?

A Yes.

Q Did you see him there?

A That's the one police officer I do recall seeing.

Q Where did you see him, if you remember?

A Somewhere in the vicinity of the nurse's station.

Q How about Jesus Faya?

1 Jack Smithers

2 A I don't recall seeing Jesus Faya.

3 Q How about Channon Rocchio?

4 A I don't recall seeing Channon
5 Rocchio either.

6 Q Any members from Homicide?

7 A I don't recall.

8 Q Any of the members from the
9 Nassau County Police Department that you saw,
10 how did you learn that they were Nassau County
11 PD, if you recall?

12 MS. PAVLIDES: Note my objection
13 to form.

14 A To my recollection, I believe
15 some were in uniform and I believe
16 Officer Meaney advised me they were Nassau
17 Police Officers.

18 Q There was a contingent of Nassau
19 Police PBA, but you never had any
20 conversations with them of substance?

21 A Correct.

22 MS. PAVLIDES: Note my objection
23 to form.

24 Q You were just sort of hanging out
25 waiting on the information that you needed

1 Jack Smithers

2 pertaining to your officer?

3 MR. MITCHELL: Objection to form.

4 You can answer.

5 A Yes.

6 Q While you were waiting, you
7 waited at the nursing station?

8 A I don't recall if I stayed at the
9 nurse's station the whole time. I do recall
10 being there at some point.

11 Q Would it refresh your
12 recollection if you recall telling Sergeant
13 Lynch you were at opposite sides of the
14 emergency room? Let me just read this to you.
15 Page 20, lines 13 to 18.

16 Question by Lynch: "All right.

17 so when you were at the hospital, you were in
18 a different section than they were.

19 Sergeant Smithers: I was. You
20 could see them, but I was completely on the
21 opposite side of the emergency room.

22 Sergeant Lynch: Can you just
23 tell me where that was in the emergency room?

24 Sergeant Smithers: I was to --
25 if you walk in the emergency room and go

Jack Smithers

[REDACTED]

Is it your testimony that you were on the right side of the nursing station, but within the immediate vicinity of Meaney?

MR. MITCHELL: Objection to form.

MR. FERNANDEZ: Objection to form.

MR. MITCHELL: You can answer.

A That's pretty much my recollection, yes.

Q Let's see. I can show you a diagram if that might help you.

A Sure.

Q Let me show you what we have been using that has been marked Plaintiff's Exhibit 43A. I just call this to your attention. This is the entrance to the emergency room where it says ambulance bay.

Jack Smithers

A Um-hum.

Q Utilizing 43A, could you tell us where you believe you were in relation to the nursing station after your arrival?

A To the best of my recollection, I recall being sort of on the right side of the nurse's station, somewhere in that hallway there where I saw Officer Meaney. And as I said earlier, the Nassau contingent, I believe, was over at that bay area on the opposite side.

Q When you say a contingent, can you give me an estimate of how many officers or personnel that you observed?

A I would be guessing. There were --

MR. MITCHELL: Don't guess.

Q Don't guess.

A There were several people.

Q When you say several, were there 2, 10, 15? Were there a large number of individuals from Nassau County present?

MR. MITCHELL: Object to form.

You can answer.

1 Jack Smithers

2 MS. PAVLIDES: Objection.

3 MR. FERNANDEZ: Note my

4 objection.

5 A Depends what you consider large,
6 but I would say there were more than ten.

7 Q So there were over ten people
8 that you believe to be affiliated with the
9 Nassau County Police Department in one way or
10 another?

11 A Yes.

12 Q By that I mean they may have been
13 delegates or things of that nature?

14 A That's fair to say.

15 Q Of those people, did you have a
16 conversation with any of them?

17 A Never.

18 Q Would you be kind enough to
19 circle for me where you were approximately?
20 And I understand that -- did you stand there
21 the entire time?

22 A I don't recall. I honestly was
23 trying to remember today where Officer Angelo
24 was being treated and I couldn't remember.

25 MR. MITCHELL: Just answer his

Jack Smithers

question. He asked where you were. Did you move around?

Q That was my next question.

A I could have. I don't recall.

Q Do you have any idea or any recollection where Officer Angelo was being treated?

A I don't recall.

Q These facts are quite some time ago, right?

MS. PAVLIDES: Objection.

A Right.

Q Without having a written record of what was said and done, it's hard to have a recall of it independently?

MR. FERNANDEZ: Objection.

A Yes.

Q You had a lot going on that particular evening?

A Yes.

MS. PAVLIDES: Objection.

Q And a lot going on between February 27, 2011 and the next time that you were questioned about that case on

Jack Smithers

March 9, 2012?

MR. MITCHELL: Objection. You
can answer.

A Yes.

Q When you were interviewed by
Sergeant Lynch, you did the best you could to
give a recollection of what you recall that
night, right?

MR. MITCHELL: Objection. You
can answer.

A Yes.

Q Would you please circle where you
were?

A To the best of my recollection, I
was in somewhere on the right side of the
nurse's desk between the nurse's desk and the
treatment room. So somewhere in this area
(indicating).

Q If you could, make a very large
circle and put your initials in it.

A A very large circle here
(indicating)?

MR. MITCHELL: Make a large
circle around the small circle. Let the

1 Jack Smithers

2 record reflect he made initially a small
3 circle with an X and now he put a large
4 circle around with his initials.

5 Q Just highlight your initials and
6 highlight the X with the circle.

7 A (Indicating).

8 Q Could you or did you see Thomas
9 Moroughan?

10 A I don't recall ever seeing Thomas
11 Moroughan.

12 Q Thomas Moroughan, I'm referring
13 to the -- you came to learn that Moroughan was
14 the cab driver?

15 A Yes.

16 Q When you were standing outside of
17 room 2 from 5:50 on, did you ever hear
18 Moroughan say anything?

19 MR. MITCHELL: Object to form.

20 You can answer.

21 A I never heard him say anything.

22 Q Did you ever observe any member
23 of the Suffolk County Homicide Bureau going
24 into Moroughan's room?

25 A I don't recall seeing anyone in

Jack Smithers

there.

Q Did you overhear any conversation whatsoever by anyone inside Moroughan's room?

A No.

Q Do you know who Detectives Tavares and Leser are?

A I know who Detective Tavares is. I don't know who Detective Leser is.

Q Do you recall seeing Tavares enter Moroughan's room?

A I don't recall seeing him enter his room.

Q Do you recall where Moroughan even was that night?

A I was told by Officer Meaney he was in one of those treatment rooms, but I never saw him.

Q And you never heard him?

A Yes.

Q Was Meaney always in your vicinity from the time that you arrived to the time that you left, when you were hanging out near the nursing station?

MR. MITCHELL: Objection to form.

1 Jack Smithers

2 You can answer.

3 A I don't recall.

4 Q Did you ever have any
5 conversation with Meaney?

6 MR. MITCHELL: Objection to form.

7 You can answer.

8 A Yes, I recall, not to the exact,
9 but I remember him saying that he was standing
10 by where Mr. Moroughan was.

11 Q During the time that you were
12 present by the nursing station, did you ever
13 observe a middle-aged, attractive female on
14 the left-hand side of the nurse's station?

15 MR. MITCHELL: Objection to form.

16 You can answer.

17 A Which female are you referring
18 to?

19 Q That's a very good point. I'll
20 show you a picture.

21 A I do recall her being in the
22 emergency room.

23 Q Did you come to learn who she was
24 that evening?

25 A Yes.

Jack Smithers

MR. MITCHELL: Just to clarify your question, when you say did you come to learn who she was that evening, you mean did he learn in that morning? I appreciate we go evening into morning. Are you asking did you learn on February 27th at some point who she was?

Q You arrived about 5:50 a.m.?

MR. MITCHELL: He said closer to six.

Q Closer to six. This is all approximate. Around 6 a.m. you arrived and after your arrival did you observe the woman depicted in Plaintiff's Exhibit 16 near the nursing station on the opposite side?

A I observed her in the emergency room, yes.

Q You observed her in the general area, you don't know exactly where?

A To my recollection, I recall her being somewhere over, like I said, a little bit between the ambulance entrance and the nurse's desk.

Q At any rate, did you ever meet

Jack Smithers

her personally?

A No.

Q Did you ever speak to her personally?

A No.

Q Did you ever hear her say anything?

A No.

Q Did you ever hear anyone speak to her?

A No.

Q Did you ever see her engaged in conversation with anyone else?

A No.

Q Did there come a time that you were advised who she was?

A Yes.

Q Do you recall who told you that?

A No.

Q Do you recall whoever advised you who she was, what did they advise you?

A They advised me that she was possibly the Godmother of the cab driver and that she worked for the Nassau District

Jack Smithers

Attorney's office.

Q At 9:45 you have a entry of a 1038. What does that entry refer to?

A That means you completed the assignment and in this case it was referring to the injured employee.

Q Between 6 a.m. and quarter to 10, you had completed those tasks, right?

A The injured employee task.

Q Then you left, you were off duty at 0950 hours?

A Yes.

MS. PAVLIDES: Sorry. That was 1038?

MR. GRANDINETTE: The code 1038.

Q So the only person you remember having a specific conversation with at the hospital was Meaney?

A Yes.

Q You have no independent recollection speaking with Tavares, Leser or any other Homicide guy at the hospital?

A Yes.

Q Yes, meaning no?

Jack Smithers

A Yes, I have no recollection.

Q I'm done. Thank you, sir.

MR. MITCHELL: Sergeant, in regard to anything having to do with this case, were you involved at all in the charges that were brought against Mr. Moroughan?

THE WITNESS: No.

(Time noted: 2:00 p.m.)

A C K N O W L E D G M E N T

STATE OF NEW YORK)
 : ss
COUNTY OF)

I, JACK SMITHERS, hereby certify
that I have read the transcript of my
testimony taken under oath in my deposition of
July 9, 2014; that the transcript is a true,
complete and correct record of my testimony,
and that the answers on the record as given by
me are true and correct.

JACK SMITHERS

Signed and subscribed to before
me, this day
of , 2014.

Notary Public, State of New York

-----I N D E X-----

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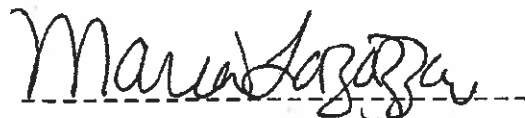
STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

I, MARIA LAZAZZARO, a Notary
Public within and for the State of New
York, do hereby certify:

That JACK SMITHERS, the witness
whose deposition is hereinbefore set
forth, was duly sworn by me and that such
deposition is a true record of the
testimony given by such witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage; and that I
am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 9th day of June,
2014.



MARIA LAZAZZARO

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